

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

FRANK M. MORALES,

Plaintiff,

v.

KENNETH L. GASTON, ET AL.,

Defendants.

§
§
§
§
§
§
§
§

CIVIL ACTION NO. H-09-1486

ORDER OF DISMISSAL

Defendants filed a motion for summary judgment on June 22, 2010. Defendants' certificate of service reflects that the motion was served on plaintiff at his address of record on that same day. Pursuant to the Court's order of January 22, 2010, plaintiff's response to the motion for summary judgment was due on July 22, 2010, thirty days after service of the motion. To-date, and despite expiration of a reasonable period of time, plaintiff has failed to file, or request additional time to file, a response to the motion for summary judgment. Inmates and other parties proceeding *pro se* are not excused from time deadlines and other procedural requirements imposed on all litigants. *See, e.g., Rolon v. City of Brownfield*, 182 F. App'x 362, 365 (5th Cir. 2006).

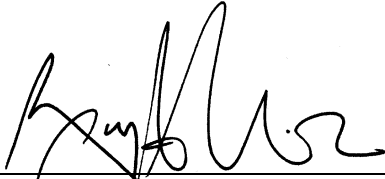
The Court finds that plaintiff has failed to respond to the motion for summary judgment, and that such failure reflects his lack of due diligence in prosecuting his case. *See Martinez v. Johnson*, 104 F.3d 769 (5th Cir. 1997) (affirming dismissal for want of prosecution based on inmate's failure to respond to a summary judgment motion). The Court

further finds that plaintiff failed to comply with the Court's order to file a response to the motion for summary judgment.

Accordingly, this case is DISMISSED WITHOUT PREJUDICE for want of prosecution pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. Plaintiff may move to reinstate this case by filing a motion for new trial with a response to the motion for summary judgment within ten days from date of this dismissal.

The Clerk will provide a copy of this order to the parties.

Signed at Houston, Texas, on August 23, 2010.



Gray H. Miller
United States District Judge -